

Kristin A. Schuler-Hintz, Esq., Nevada SBN 7171  
Christopher M. Hunter, Esq., Nevada SBN 8127  
McCarthy & Holthus, LLP  
811 South Sixth Street  
Las Vegas, NV 89101  
Phone (702) 685-0329  
Fax (866) 339-5691  
[KHintz@mccarthyholthus.com](mailto:KHintz@mccarthyholthus.com)  
Attorney for Defendant:  
LSI Title Agency, Inc.

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DENNIS E. SCARBERRY,  
Plaintiff,

v.

FIDELITY MORTGAGE OF NEW YORK,  
etc., et al,  
Defendants.

Case No.: 2:12-cv-00128-KJD-CWH

**[PROPOSED] ORDER GRANTING  
JOINDER MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT FILED BY  
LSI TITLE AGENCY, INC.**

Defendants, Wells Fargo Bank, N.A. and Mortgage Electronic Registrations Systems, Inc. filed a Motion to Dismiss Plaintiff's Complaint pursuant to FRCP 12(b)(6) on January 26, 2012 (Docket No. 8). On January 27, 2012, Defendant, LSI Title Agency, Inc. filed a Joinder to the Motion to Dismiss (Docket No. 11). The Docket Report shows that Plaintiff has failed to file a response to the Motion to Dismiss..

The Court having considered the moving papers, its own files, and good cause appearing, rules as follows:

1. Pursuant to Local Rule 7-2(b), any Response and/or Opposition to Defendants' Motion to Dismiss was required to be filed with the Court and served within fourteen days after

1 service of the motion. No Response and/or Opposition has been filed by the Plaintiff regarding  
2 this matter. Pursuant to Local Rule 7-2(d), the failure of an opposing party to file Points and  
3 Authorities in response to any Motion shall constitute consent to the granting of the motion.

4 2. The Court may grant the Motion to Dismiss for failure to follow local rules. *Ghazali*  
5 *v. Moran*, 46 F.3d 52 (9<sup>th</sup> Cir. 1995). Before dismissing the action, the district court is required  
6 to weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) the  
7 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
8 favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.  
9 The Court has considered these factors and finds that Plaintiff has received notice and has been  
10 given ample time to respond.

11 IT IS THEREFORE ORDERED, that based on the foregoing, the Motion to Dismiss  
12 Plaintiff's Complaint for failure to state a claim for relief and LSI Title Agency, Inc.'s joinder  
13 thereto is GRANTED and Defendant, LSI Title Agency, Inc. is hereby dismissed with prejudice.

14 IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2012.

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UNITED STATES DISTRICT COURT JUDGE

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20 Respectfully submitted,

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22 McCarthy & Holthus

23 By: /s/Christopher M. Hunter  
24 Christopher M. Hunter  
25 9510 W. Sahara, Suite 110.  
26 Las Vegas, NV 8911701  
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